

Get Smart

Buying, Selling High-Tech Homes

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Use of smart-home technology is on the rise across the globe, with the United States universally acknowledged as the largest consumer. SafeSmartLiving.com’s analysis of research by market and consumer data research firm Statista concludes that by 2023 there will be 70.6 million smart homes (nearly twice the number in 2018), and 53.9 percent of households will live in smart homes. *Forbes* research predicts the value of the smart-home device market will grow from \$55 billion in 2016 to \$174 billion in 2025.

This rapid growth means license holders will soon see an increase in the buying and selling of smart homes. Understanding what constitutes a smart home and how such devices affect value, showings, contracts, inspections, and post-closing matters helps license holders reduce risk and unintended consequences for themselves and their clients.

What Is a Smart Home?

A smart home contains several technology devices that are connected to the Internet, respond to voice controls,

The Takeaway

Studies show a growing number of homes use smart devices. While such technology can make a listing more attractive, it also adds steps to the buying/selling process that license holders need to know.

or can be accessed and controlled remotely. These devices make life easier, save time and/or money, make homes safer, and are most commonly operated through a hub such as Amazon Echo or Google Home. Imagine a home that adjusts the lights and temperature to the residents’ preferences automatically as they stream movies and music over the Internet by voice command. Or a refrigerator that notes when the homeowners are low on something and adds it to the grocery list on their mobile device. Maybe it’s a home that has a surveillance system with an automatic locking system and the ability to open the door or see who is at the door when the homeowners are miles away. How about a robot that vacuums the house or mows the lawn? For anyone 50 or older, it’s

The Jetsons becoming a reality (except for the flying cars). For millennials, it's the natural progression of the integration of technology and life.

In fact, according to Digital Media Solutions, 43 percent of smart-home technology users in 2019 were 18 to 34 years old. Gen Xers are not far behind, and baby boomers are quickly realizing the benefits a smart home can provide. With the 5G network coming online across the country, buyers of all ages will be more interested in smart homes. License holders should be aware of requirements and their responsibilities at each stage of the transaction to help their clients navigate the sale or purchase of a smart home.

Before Listing a Home

Whether a home has smart devices or not is a question every listing agent should ask their seller. Not all devices are obvious, like light bulbs or Bluetooth speakers. Agents should ask sellers to make a list of all smart devices in the home.

The next question should be which, if any, of the smart devices will stay when the house is sold. Reasons for leaving smart devices or taking them will depend on each homeowner. Did the seller recently acquire the smart devices or did he just want to keep them because he is used to how they work?

License holders don't have to be experts on smart devices, but they should be familiar enough with the demographics and general market in their area to discuss the pros and cons of selling the home as a smart home versus removing some or all of the smart technology. For example:

- Many people think homes with smart security systems are safer.
- Smart thermostats and light switches or bulbs can save energy and money.
- Do buyers in the area prefer "walk-in ready" homes?
- Are other homes in the area being advertised as smart homes?

In other words, will selling the home with smart-home technology help the sales process by getting a contract sooner or a higher sales price?

Consumer Reports research indicates smart home features can boost a home's resale value by up to 5 percent (that's \$15,000 on a \$300,000 home), and home appraisers are beginning to factor in the value of tech features.

The price impact varies greatly from property to property and in different market areas. To date, there are no empirical data to measure the potential price influence in Texas communities, so license holders need to be vigilant about what is happening in their market.

Smart devices that will stay should be highlighted in marketing materials. This might make the home stand out over others in the neighborhood. If the device is not going to stay, recommend that the seller remove and replace those devices prior to showing, if possible. For example, replace a Nest thermostat with a traditional thermostat, or smart light switches with standard ones. Showing the house with those items in them might lead the buyers to assume they convey with the home.

Exercise Caution When Showing

Many sellers will want to use their smart security devices or baby monitors to watch and listen to buyers viewing their home. Listing agents should not give sellers legal advice about whether they can or cannot record buyers viewing their home. They can, however, provide printed information regarding surveillance laws and recommend that they consult an attorney if they are going to record showings. Both the National Association of Realtors and Texas Realtors have such materials license holders can give to clients.

The Federal Electronic Communications Privacy Act (ECPA) and Section 16.02 of the Texas Penal Code both prohibit audio recordings without the consent of at least one individual who is part of the conversation. Neither prohibits video recording except in areas where a person would have a reasonable expectation of privacy, like a bathroom. The right to record audio under the law does not extend to a person's home if the person is not present in the home and part of the conversation.

Buyer's agents should discuss the possibility of being under surveillance when viewing a smart home with their clients. Advise buyers to assume that they are being recorded (whether it is legal or not) and to moderate their reactions to the house when inside the house or in the front yard. Body language and gestures can reveal as much as words about a person's impression of the house. In addition, all conversations between the agent and clients while viewing a home should be limited to general information, such as sports and the weather. The best time to review impressions of the house and possible contract offer terms is when the buyer and agent are back in the car or at another location.

Putting It on Paper

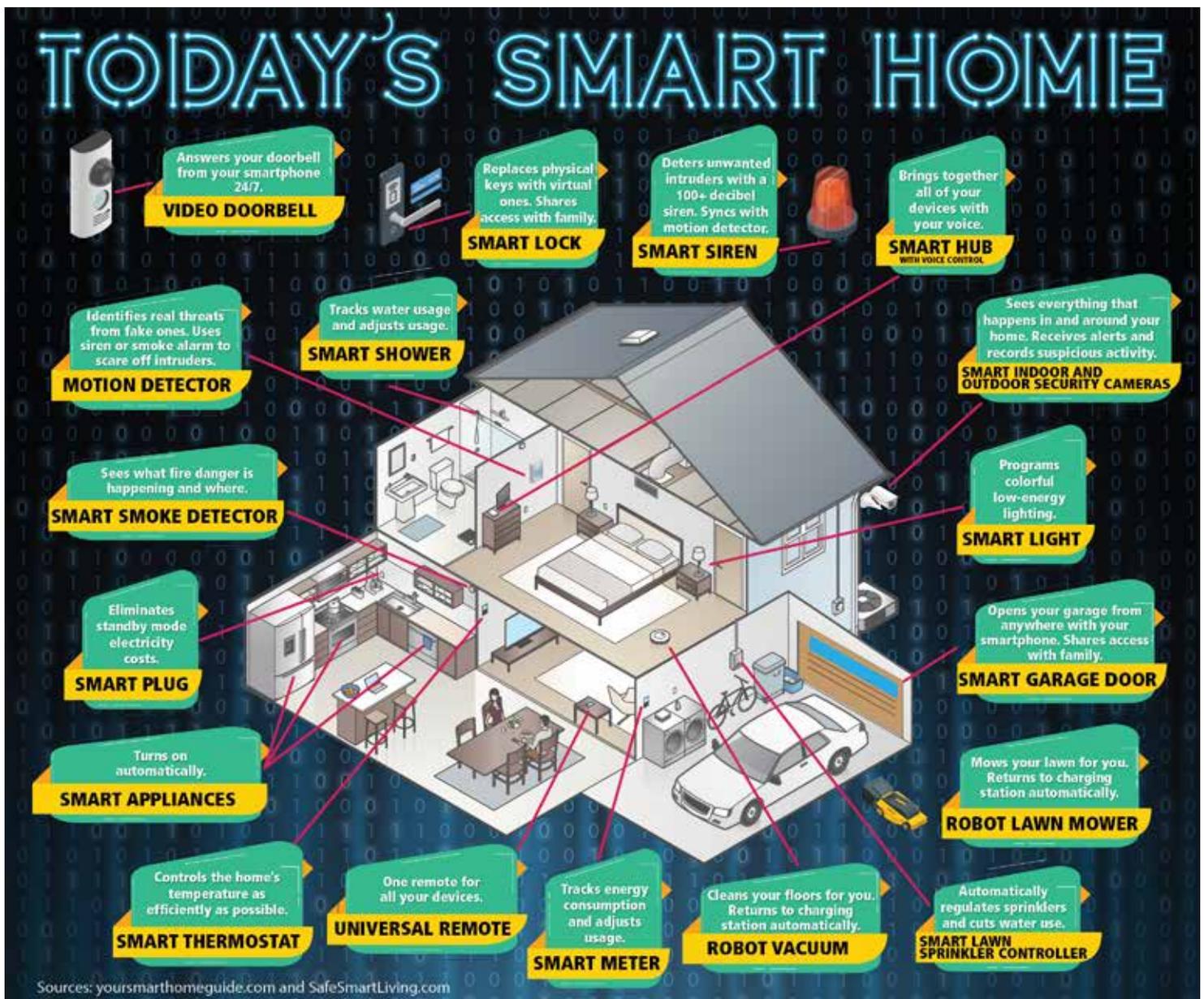
All parties need to understand what smart technology is staying and what is not. Some determining factors could be whether the technology is sufficiently attached to the home to be considered a built-in improvement or integrated into the house enough to be an accessory. If so, it will convey under the terms of the contract *unless* it is specifically excluded under paragraph 2D. If unsure of the character of the device and the seller wants to take it when he moves, list the device as an exclusion under paragraph 2D so there is no argument later over who keeps the device. If the device is not a fixture or an accessory and is going to be sold to the buyer, a nonrealty item addendum should be prepared by the license holder. Alternatively, the parties can prepare a bill of sale for

those devices. It is critical that license holders review the list of devices with their respective clients to make sure both parties understand which will be sold with the house and how that is reflected in the contract.

Buyer's agents should encourage buyers to do their own due diligence research on the value and cyber security of the various devices in the home prior to putting in a contract offer. Buyers should also inquire if there are warranties on the devices that are staying and if those warranties transfer.

Access for Inspectors

Buyers or their inspectors will need access to smart devices so they can determine the working condition of the devices. This may make some sellers uncomfortable. However, if



smart home devices are a feature of the home for sale, buyers should be able to assess their functionality. Some devices allow a guest code to be set up, which can alleviate some security concerns.

Keep in mind that TREC-licensed home inspectors must be able to access and test all standard home operational systems, like HVAC (including the thermostat) and lighting. If a smart device runs that system, the home inspector will need access to the smart device to perform the standard home inspection.

Inspectors licensed by TREC are not required—and are possibly not qualified—to evaluate smart devices themselves. A buyer may want to find a person to separately evaluate the smart devices that will convey or ask the seller to arrange a hands-on demonstration. If hands-on demonstrations are not possible, consider making a video buyers can view that shows what the smart devices can do.

Provide house plans of where devices are located. If smart devices such as light switches or thermostats have resulted in energy savings, put together a fact sheet or graph showing the savings.

Sellers should also consider giving disclosures about the smart technology. Are there any subscription charges for devices or related services? Are there any warranties, and are they transferable? Has there been a security breach of any of the devices in the home (by cyber criminals, for instance)? This last disclosure could be considered information a reasonable buyer would want to know when deciding to buy the house.

Not disclosing it could be a violation of the Deceptive Trade Practices Act.

Removing Personal Data

Smart devices can hold a lot of personal user data the owner has supplied or that the device has collected. The seller should remove administrative access and any personal information for all connected devices and return the devices to factory settings. A seller should also review privacy settings and delete permissions and settings for mobile devices that may be synced with the smart devices. The seller should leave all manuals and warranties in the home for the new owner along with a list of the manufacturers unless the manufacturer's name is on the device.

The buyer should verify that any of the seller's mobile devices that were synced to the smart technologies were uncoupled and that all devices have been returned to factory settings. Buyers should then create their own account or register the devices under an account they already have with that service provider so device updates can be performed. This is particularly important for security updates. Finally, buyers should create new access codes, set their own preferences, and sync the smart technology to their mobile devices.

Then all that's left to do is sit back, relax, and enjoy the smart home life. 🍷

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